IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.8687 OF 2005

Shri Abdul Rahiman Abdul Kadar. .. Petitioner
v/s.
Union of India & ors. .. Respondents

Mr.S.N.Kantawalla i/by Mr.Yogesh Roihira for petitioner.

Mr.Kiran Kandpile with Mr.H.V.Mehta for respondents.

CORAM : H.L. GOKHALE &
J.P. DEVADHAR, JJ.

DATED : 15th December 2005

P.C. :

1. Heard Mr.Kantawalla in support of this Petition. Mr.Kandpile appears for the respondents.

2. This Petition seeks to challenge the order dated 2nd November 2005 passed by the Settlement Commission. The petitioner has imported a car viz. Toyota Landcruiser Station Wagon. During the pendency of the adjudication with respect to the custom duty, the petitioner went to the Settlement Commission. The Settlement Commission has noted that there appears to be a pre-planned attempt to violate Government policy of allowing import of motor vehicles meant for genuine passengers who are shifting their residences from

abroad to India. The Settlement Commission is right in observing in this particular manner. We are shown three earlier orders passed by the Settlement Commission where redemption fine was not imposed. The first order was passed on 31st March 2004, the second one was passed on 31st March 2005 and the third order was passed on 3rd June 2005. Having seen these orders, the Commission has drawn this inference that though the policy permits the importers who have used their vehicles one year abroad, a new vehicle is sought to be pushed in under that policy. It is for this reason that though the vehicle was allowed to be released under the interim order, the redemption fine has been imposed.

3. Mr.Kantawalla appearing for the petitioner submitted that when the aforesaid three liberal orders were passed earlier, the same approach should have been adopted in the present case. It appears that the Settlement Commission has learnt by experience and, therefore, has observed in this particular fashion and in our view, rightly so. Mr.Kantawalla has made a grievance about the amount of redemption fine. The petitioner is not to be prosecuted under this order and that is the benefit that he is going to get and for that this

much penalty cannot be said to be in excess. Mr.Kantawalla submitted that under Section 125 of the Customs Act, due regard should be had with respect to the market price. Mr.Kandpile appearing for the revenue states that the vehicle would be sold atleast for Rs.50 Lakhs in market. In any case, while imposing the fine, apart from Section 125 of the Customs Act, the Commission would be entitled to impose an appropriate deterrent amount also. We do not find any error in the impugned order. The Petition is, therefore, dismissed.

(H.L. GOKHALE, J.)

(J.P. DEVADHAR, J.)